Type of information	Location
Official Personnel Folders	293.311
Privacy and personnel records.	297
Retirement	831.106

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 278

[Amdt. No. 280]

Food Stamp Program; Retailer/ Wholesaler Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements the three provisions of the Food Security Act of 1985 (Pub. L. 99-198, 99 Stat. 1354, et seq.) which revised sections 3(k), 9(c) and 12(e) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2011 *et seq.*). The first provision amends the definition of retail food store to require that sales volume at the time of application be determined by visual inspection, sales records, purchase records, or other inventory or accounting methods which are customary or reasonable in the retail food industry. The second provision affects the sellers of retail food stores and wholesale food concerns who sell their firms during a disqualification period by making the seller subject to continued disqualification and to a civil money penalty which the Secretary may request the Attorney General collect through civil litigation. A bona fide purchaser or transferee is not subject to the civil money penalty and is not required to furnish a bond to be authorized to accept food stamps. The third provision of the Food Security Act contained in this rule concerns the release of information which firms are required to submit to the Food and Nutrition Service (FNS) regarding their participation in the Food Stamp Program (FSP). Under this provision, such information may be released by FNS to State agencies administering the Special Supplemental Food Program for Women, Infants and Children (WIC) so as to improve WIC Program compliance by participating retail stores. This rule also requires withdrawal from the Food Stamp Program of firms which are removed from the WIC Program as a result of violations of that program's regulations.

EFFECTIVE DATE: The provisions of this rule contained in § 278.1(o) shall be effective May 22, 1987. All other provisions of this rule are effective retroactively to April 1, 1987 because Pub. L. 99-198 specifically requires this effective date.

FOR FURTHER INFORMATION CONTACT: Emory Rice, Supervisor, Retailer Participation and Program Litigation Section, at 3101 Park Center Drive, Eligibility and Monitoring Branch, Program Development Division, Food and Nutrition Service, USDA, Alexandria Virginia 22302. (703) 756-3427.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The rule will affect the economy by less than $100 million a year. The rule will not raise costs or prices for consumers, industries, government agencies or geographic regions. There will be no adverse effects upon competition, employment, investment, productivity, innovation, or upon the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified the rule as "not major".

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.1551. For the reasons set forth in the Final rule, related Notice(s) to 7 CFR Part 3015 subpart V (Cite 48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this program is excluded from the scope of Executive Order 12372 which requires intergovermental consultation with State and local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. S. Anna Kondratas, Acting Administrator of the Food and Nutrition Service, has certified that this action, while affecting some retail food firms, will not have a significant impact on a substantial number of small entities. This rule may have a significant economic impact on some small entities affected by the rule. However, only a small number of firms will be affected.

Paperwork Reduction Act

This regulation does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act.

Justification for Publishing a Final Rule Effective Less Than Thirty Days From Publication.

Pub. L. 99-198, Section *1583,* mandates that certain of the provisions of this final action be effective April 1, 1987. Therefore, implementation of the provisions concerning determination of food sales volume, procedures when a disqualified store is sold and release of information on firms to WIC State agencies must occur no later than April 1, 1987. Thus, publication of the prescribed provisions not less than 30 days prior to the effective date is not required under 5 U.S.C. 553(d) because implementation of those provisions of the rule by April 1, 1987 is mandated by law.

Background

On December 3, 1986, the Department published in the **Federal Register** a proposed rule to implement three provisions of the Food Security Act of 1985 (Pub. L. 99-198, 99 Stat. 1354 *et seq.*) which revised sections 3(k), 9(c) and 12(e) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2011 *et seq.*). The proposed rule also required withdrawal from the Food Stamp Program of firms which are removed from the WIC Program as a result of violations of that program's regulations. A 60 day comment period was provided.

A total of 53 comment letters were received as of February 17, 1987. Of these comment letters, 44 express support for the WIC provisions and 2 support the entire proposed rule as written.

Determination of Food Sales Volume at Time of Application (§ 271.2)

One commenter expressed support for the change in the definition of retail food store to include the statement that sales volume is to be determined by visual inspection, sales records, purchase records, or other inventory or accounting methods that are customary or reasonable in the retail food industry. The commenter did not seem to realize that this provision reflects existing FNS practice. The Department has decided no change in the provision is required.

Procedures When a Disqualified Store is Sold (§ 278.6(f))

We received one general comment from a retailer associatior to the effect

that store owners should not be held responsible for the actions of their clerks. This comment does not relate to the purpose of this provision which is to prevent circumvention of sanctions by transferring the store. The Department has decided that no change to this provision is necessary.

Withdrawal of Firms for WIC Program Violations (§ 278.1(o))

The December 3, 1986, publication proposed withdrawal from the Food Stamp Program of firms which are removed from the WIC Program as a result of violations of that program's regulations.

One commenter suggested that firms whose contracts with the WIC Program are not renewed should be withdrawn from the Food Stamp Program. WIC Program vendors' contracts may not be renewed for a variety of reasons, including both violations of program regulations and administrative reasons. Firms are not afforded the opportunity to appeal State agency decisions not to renew WIC Program contracts. The Department does not believe that failure to renew a WIC Program contract is an acceptable reason for withdrawing a store's Food Stamp Program authorization since there may be no relationship between nonrenewal of the WIC contract and a firm's suitability as a food stamp retailer. Thus, the Department has decided against specifically requiring in this rule that firms be removed from the Food Stamp Program when their WIC Program contracts are not renewed.

The December 3, 1986, proposal provided that FNS *shall* withdraw the authorization of a firm which has been removed from the WIC Program for violations. One commenter suggested that the regulatory language should be changed to provide that FNS *may* withdraw such a store so that FNS could consider lesser sanctions such as a formal warning or FNS investigation. The Department believes that a store which has been determined, with due process, to have violated the WIC Program regulations has clearly demonstrated a lack of business reputation and integrity sufficient to warrant its removal from the Food Stamp Program. Thus, the Department has retained in this final rule the provision that FNS *shall* withdraw such firms.

The December 3, 1986, proposal specified that removal from the Food Stamp Program could be based on any act which constitutes a violation of the WIC Program's regulations and which is shown to constitute a misdemeanor or felony violation of law or for other specified program violations. One commenter pointed out that in some States WIC vendors may be disqualified from the WIC Program on the basis of a point system. Under this system stores may be disqualified for a mixture of violations, not all of which are the types of violations specified in the December 3 proposal. The Department believes that a firm should be withdrawn from the Food Stamp Program if any of the WIC Program violations which were the basis for the WIC disqualification were among those specified in this rule. The Department, therefore, has added language to § 278.1(o) to make it clear that a firm will be withdrawn from the Food Stamp Program if it is disqualified from the WIC Program and the WIC disqualification is based in whole or in part on the WIC violations specified in § 278.1(o) of this rule.

Another commenter stated that the provision which withdraws firms from the Food Stamp Program for WIC Program violations will result in an increase in appeals of WIC Program disqualifications. The Department recognizes that appeals of WIC disqualifications may increase as a result of this rule. In many cases, the potential loss of revenue for stores is much greater from withdrawal from the Food Stamp Program than from disqualification from the WIC Program. However, the Department believes that the possible increase in appeals is counterbalanced by the deterrent effect on violations that will be achieved by this rule. In addition, the Department believes that it is important for FNS to maintain this provision in the interest of cross-compliance by retail firms participating in both of these major Federal feeding programs.

One commenter expressed concern that the time required for WIC Program officials to notify Food Stamp Program (FSP) officials of WIC disqualifications and the time required to provide stores with notice of FSP disqualification and FSP appeal rights would reduce the time the store is withdrawn from the FSP. Both the WIC notifications to FNS and the FSP withdrawal notices to stores will occur prior to the effective date of the WIC disqualification. Thus, the times required for these actions will not effect the length of the food stamp withdrawal. The time required for a store's administrative review of the food stamp withdrawal may delay the effective date of a sustained withdrawal somewhat. However, the review by the Food Stamp Review Officer is limited to confirming that the store has been disqualified and that the disqualification was based, in whole or in part, on one or more of the violations specified in this rule. The Department does not believe that this will be a long process and, thus, believes that any impact on the length of the food stamp withdrawal will be minimal.

Finally, the Department wishes to clarify § 278.1(o) of this rule which pertains to the withdrawal from the Food Stamp Program of firms which have been disqualified from the WIC Program. The December 3, 1986 proposal provided, at § 278.1(o)(7), that FNS shall not withdraw a firm's Food Stamp Program authorization unless the firm had been provided notice of the possible withdrawal prior to the time set for review of the WIC removal. The intent of this provision is to insure that the firm is notified of the possible withdrawal from the Food Stamp Program prior to expiration of the time period prescribed for *requesting* review of the WIC action. Thus, in order to protect due process as suggested by counsel, the Department has added language to § 278.1(o) to clarify the intent of this provision. In addition, the paragraphs in Section 278.1(o) are being renumbered to correct a technical oversight in the December 3, 1986 publication.

Release of Information on Firms to WIC State Agencies (§ 278.1(q))

The December 3, 1986, publication proposed that information which a firm is required to submit to FNS under section 9(c) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2018(c)) may be released to WIC State agencies. This provision is based on an amendment to the Food Stamp Act contained in section 1521 of the Food Security Act of 1985. Previously FNS had been prohibited by law from releasing information submitted by firms to WIC State agencies. Only two comments were received on this provision. These commenters suggested that FNS should release to WIC State agencies information about firms other than that submitted to FNS by the firms. Specifically, the commenters were interested in receiving information on which firms have been determined to possibly be violating Food Stamp Program rules and information on Food Stamp Program investigations. FNS has always had the authority to release such information to WIC State agencies provided protected information was not included. In fact, in many areas information on investigations is being released in various forms to WIC State agencies. Since FNS has the authority to release this information and does currently provide this information to WIC State agencies, the Department does not believe it is necessary to

provide for this authority in the rule. Thus, the provision for release of information to WIC State agencies is being adopted in this final rule as proposed.

Implementation

The provisions of this final rule contained in § 278.1(o) are effective May 22, 1987. All other provisions of this rule will become effective April 1, 1987.

List of Subjects

7 CFR Part 271

Administrative practice and procedures, Food stamps, Grant programs-Social programs.

7 CFR Part 278

Administrative practice and procedures, Banks, Banking claims, Food stamps, Groceries-retail, Groceries, General line-wholesaler penalties.

Therefore, 7 CFR Parts 271 and 278 are amended as follows:

1. The authority citation for Parts 271 and 278 continues to read:

Authority: 7 U.S.C. 2011–2029.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2 Definitions, the definition of "Retail food store" is amended by adding after the words "food sales volume" in paragraph (1) the following, "as determined by visual inspection, sales records, purchase records, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry".

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

3. In § 278.1:

a. Paragraph (b)(4)(ii) is amended by adding a new sentence after the last sentence.

b. Paragraphs (o), (p), (q), and (r) are redesignated as paragraphs (p), (q), (r), and (s) respectively and a new paragraph (o) is added. Newly designated paragraph (r) is revised.

The additions and the revision read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(b) * * *

(4) * * *

(ii) * * * A buyer or transferee shall not, as a result of the transfer or purchase of a disqualified firm, be required to furnish a bond prior to authorization.

* * * * *

(o) Removal from the Special Supplemental Food Program, for Women, Infants, and Children (WIC)

(1) FNS shall withdraw the Food Stamp Program authorization of any firm which is disqualified from the WIC Program based in whole or in part on any act which constitutes a violation of that program's regulation and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:

(i) Claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time.

(ii) Exchanging cash or credit for WIC food instruments;

(iii) Receiving, transacting and/or redeeming WIC food instruments outside of authorized channels;

(iv) Accepting WIC food instruments from unauthorized persons;

(v) Exchanging non-food items for a WIC food instrument;

(vi) Charging WIC customers more for food than non-WIC customers or charging WIC customers more than current shelf price; or

(vii) Charging for food items not received by the WIC customer or for foods provided in excess of those listed on the food instrument.

(2) FNS shall not withdraw the Food Stamp Program authorization of a firm which is disqualified from the WIC Program unless prior to the time prescribed for securing review of WIC disqualification action, the firm was provided notice that it could be withdrawn from the Food Stamp Program based on the WIC violation. Once a firm has served the period of removal from WIC specified by the State agency, the firm may reapply for Food Stamp Program authorization and be approved if otherwise eligible.

* * * * *

(r) Safeguarding privacy. The contents of applications or other information furnished by firms, including information on their gross sales and food sales volumes and their redemptions of coupons, may not be used or disclosed to anyone except for purposes directly connected with the administration and enforcement of the Food Stamp Act and these regulations, except that such information may be disclosed to and used by State agencies that administer the Special Supplemental Food Program for Women, Infants and Children (WIC). Such purposes shall not exclude the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

* * * * *

4. In § 278.6, the text of paragraph (f) is redesignated as paragraph (f)(1). New paragraphs (f)(2), (f)(3), and (f)(4) are added to read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

* * * * *

(f) Criteria for civil money penalty. * * *

(2) In the event any retail food store or wholesale food concern which has been disqualified is sold or the ownership thereof is otherwise transferred to a purchaser or transferee, the person or other legal entity who sells or otherwise transfers ownership of the retail food store or wholesale food concern shall be subjected to and liable for a civil money penalty in an amount to reflect that portion of the disqualification period that has not expired, to be calculated using the method found at § 278.6(g). If the retail food store or wholesale food concern has been permanently disqualified, the civil money penalty shall be double the penalty for a ten year disqualification period. The disqualification shall continue in effect at the disqualified location for the person or other legal entity who transfers ownership of the retail food store or wholesale food concern notwithstanding the imposition of a civil money penalty under this subsection.

(3) At any time after a civil money penalty imposed under paragraph (f) (2) of this section has become final under the provisions of Part 279, the Food and Nutrition Service may request the Attorney General institute a civil action to collect the penalty from the person or persons subject to the penalty in a district court of the United States for any district in which such person or persons are found, reside, or transact business.

(4) A bona fide transferee of a retail food store shall not be required to pay a civil money penalty imposed on the firm prior to its transfer. A buyer or transferee (other than a bona fide buyer or transferee) may not be authorized to accept or redeem coupons and may not be authorized to accept or redeem coupons until the Secretary receives full payment of any penalty imposed on such store or concern.

* * * * *

5. Section 278.9 is amended by adding a new paragraph (f) as follows:

§ 278.9 Implementation of amendments relating to participation of retail food stores, wholesale food concerns and insured financial institutions.

* * * * *

(f) *Amendment No. 280.* The provisions for Part 271 and §§ 278.1(r) and 278.6(f) of No. 280 are effective retroactively to April 1, 1987. The provision for § 278.1(o) is effective May 22, 1987.

Dated: April 16, 1987.

S. Anna Kondratas,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS Number 1015-87]

Nonimmigrant Classes; F-1 Academic Students

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Immigration and Naturalization Service is revising the regulations regarding F-1 academic students to streamline administrative procedures and eliminate burdensome paperwork while maintaining control over students by more effective use of institutional sponsorship of the students by the schools. This rule is a refinement of a major revision to the student regulatory package published on April 5, 1983 at 48 FR 14575.

EFFECTIVE DATE: May 22, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph D. Cuddihy, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3320.

SUPPLEMENTARY INFORMATION: On August 4, 1986, the Service published proposed regulations relating to F-1 nonimmigrant students and schools approved for their attendance in the **Federal Register** at 51 FR 27867. The sixty-day comment period ended October 3, 1986.

The regulations proposed to change the definition of duration of status, to change the procedures for a nonimmigrant student to transfer between schools, to streamline the process for a nonimmigrant student to obtain a first period of practical training upon graduation, and to require the Service to deny any change of status request for change of nonimmigrant status from student to temporary worker (H classification) when the student has engaged in practical training after completion of studies.

Seventy-seven individuals and organizations submitted written comments on the proposed regulations. Fifty commenters stated that they were in general agreement with the rule, while nine opposed it. Eighteen commenters did not express a general opinion, commenting only on a specific portion of the proposal. Many commenters made observations on various specific parts of the proposal. The Service has carefully analyzed all comments and has identified six major areas of concern, as well as a number of general and technical points. The major areas of concern are:

(1) Limitations on and exceptions to the term "duration of status",

(2) Requirements for seeking school transfer,

(3) Requirements for granting practical training,

(4) Special requirements for practical training for students engaged in work-study programs,

(5) Changes to the recordkeeping requirements, and

(6) Bar of change to H nonimmigrant status.

Duration of Status

Under current regulations, F-1 nonimmigrant students are considered to be in status while pursuing a full course of study in only one educational program (e.g., elementary school, high school, bachelor's degree or master's degree) and any period or periods of authorized practical training, plus thirty days.

In the proposed regulations, duration of status was defined to mean the period during which a student is pursuing a full course of studies in any educational program, and any period or periods of authorized practical training, plus sixty days. The definition was limited, in that a student who has been in status for eight consecutive academic years would be required to file for extension of stay. There were also three exceptions to the duration of status definition in the proposed rule. A student who goes out of status because he/she meets one of these exceptions would be required to apply for reinstatement in order to be put back into duration status. The proposal also indicated conditions under which a student could engage in less than a full course of study and still be considered in status.

Thirty-six individuals commented on various aspects of the definition, limitations and exceptions to duration of status. All commenters were in favor of the extension of the duration of status to all levels of study. Seventeen commenters indicated opposition to use of the phase "limited to" when describing reasons for which a person could be considered in status while engaging in less than a full course of study, indicating that the reasons given were not inclusive enough, and recommending that the phrase "such as" or "for example" be substituted. They also objected to the Service's allowing a person to be less than full-time student during only one term of a program of studies, citing the parts of the proposed rule dealing with exceptions to duration of status as sufficient to correct abuse. Three commenters also objected to the Service's indicating that such a student would be in status during an illness but for no other reason. They recommended that there may be other legitimate medical reasons (such as pregnancy or a legitimate family emergency) during which a student should still be considered in status. Three commenters also objected to the Service's stating that a foreign student may take less than a full course of studies when "directed" to do so by a designated official, indicating that designated officials do not direct, but merely advise, a course of action.

In this final rule, the Service has revised the language to indicate that a designated official may advise a student, and deleted the provision that a person may be less than a full-time student only once during a program of studies, agreeing that other parts of the regulation will control abuse of this provision. The final rule also indicates that a student will be considered in status for medical conditions other than illness. The Service feels that to extend this provision even further to individuals who have a family emergency would leave the provision open to too wide an interpretation and would lead to inconsistency, and therefore rejected that recommendation.

Similarly, the final rule limits the valid academic reasons for which a student may be considered to be in status. If these reasons were only considered examples, there would be no definitive guidelines for designated school officials and the reasons would be subject to individual interpretation. In addition, the Service would have no method for systematically reviewing the interpretations used by designated school officials.

Comments also recommended that the limitations and exceptions to the duration of status definition be dropped

entirely. Several commenters indicated that the exceptions actually caused the definition to become a "date certain" provision, a provision that was contained in the regulation in the past and has been discarded as too cumbersome to administer. Concern was expressed that the Service was intruding into what should be an academic decision between the school and its individual students. It was also suggested that the penalty for exceeding the maximum time limits expressed in these exceptions (being declared out of status and having to request reinstatement), was too harsh for the violation, and would place an excessive workload on both the schools and the Service to administer.

The exceptions to the duration of status provisions were placed in the proposed regulation to insure that the Service could review the status of a student who was taking a significant period of time to complete a specific educational program, above and beyond what the school had estimated would be the expected completion date when the student began the program. The Service feels that the time elements are generous and that the provisions will affect a very small percentage of individuals, as the vast majority of foreign students progress toward their educational objectives in a satisfactory manner, well within the time limits set by the exceptions. The Service does, however, accept the recommendation that the review be conducted by way of application for extension of stay, rather than reinstatement.

Accordingly, in the final rule, an individual will be required to submit an application for extension of stay to the Service if, based on the date on the Form I–20 A–B issued at the beginning of the program, the individual exceeds the applicable maximum time period expressed in paragraph 7(b). It should also be noted that the Service has added language to clarify that this date changes as a student progresses to each educational level, but the date does not change while a student remains at the same educational level. Thus, a student admitted in a bachelor's degree program which the school indicates he will complete in 4½ years needs to request an extension of stay if he is going to remain in any bachelor's degree program more than six years. If he/she transfers between schools, still seeking a bachelor's degree, or changes majors, still seeking a bachelor's degree, the date on which he/she needs to request an extension does not change. If the same student completes that bachelor's degree program in 4½ years, and then transfers (either at the same school or to a different school) to a master's degree program which the school indicates he/she will complete in 2½ years, the student would never have to complete an extension of stay application unless he/she needed to continue the master's degree program more than 3½ years beyond the date the master's program began. A student may continue to attend school while an application for extension is pending. The student must establish there are valid educational reasons for not completing the program in the allotted time before the extension will be granted.

The final rule requires the Service to come in contact with only those students who are taking a significantly longer period of time to complete a program than what the school originally anticipated, and to review the validity of the reasons for that delay, or to come in contact with students who have been in the United States for eight consecutive years.

Transfer Procedures

Sixteen individuals and organizations indicated a desire to include a mechanism to inform the school from which a student was transferring that the transfer had been completed. They all indicated that the schools had a responsibility for the student until the transfer had been completed. In addition, sixteen commenters discussed what was perceived to be a new requirement for the designated school official to insure that a student was taking a full course of study at the school the student was last authorized to attend before effecting a transfer. Two commenters indicated the fifteen-day time period for a school official to forward documents to the Service on transfer was too short. All commenters favored the decision in the proposed regulation to streamline and simplify the transfer procedures.

The final rule requires the designated school official at the school to which the student is transferring to provide a copy of the completed transfer of Form I–2.0 A–B to the school from which the student is transferrring. The Service recognizes that the procedure will be cumbersome, and will include a sheet in the next revision of Form I–20 A–B to accomplish this without photocopying.

The current regulations require a student to establish that he/she is a bona fide nonimmigrant student who has been taking a full course of study at the last school which he/she was authorized to attend before a same-level transfer may be authorized. The proposed regulation emphasized that the designated official of the new school must ascertain whether this is true before effecting a transfer. It is anticipated that this can be determined in a variety of ways, whichever is most convenient for the designated official, such as review of the student's prior transcript, knowledge of admissions requirements and procedures, or personal contact with the designated official at the prior school. A particular school may also place the burden on the student to provide this evidence at the time the transfer is completed. The Service feels that the fifteen-day time period in the proposed regulations is sufficient for forwarding documents to the Service.

Practical Training

Four commenters objected to the proposal to allow designated officials to certify eligibility for practical training in situations where the designated official and the head of the student's academic department or professor both certify that employment comparable to the proposed employment is not available to the student in the country of the student's last foreign residence. In addition, five individuals or organizations indicated that the certification should not be required at all, or that the certification should not be required for students who accept practical training prior to graduation. Four individuals stated that the list of individuals who can make the certification should be expanded, while eight individuals stated that the time period during which a student is barred from accepting practical training (nine months) should be lowered.

In the final rule, the Service has eliminated the need for a certification regarding availability of training in the home country only for those individuals attending a school which requires or makes optional practical training for candidates for a degree in that field. It is felt the certification is not necessary in those instances. The final rule retains the authority of a designated official to certify practical training but does not expand the list of those who may certify, as the intent is to limit this authority to those who would have the best opportunity to know the world-wide employment situation in a particular field. The final rule also retains the nine-month bar for accepting practical training, as it is felt the initial goal of the educational process should be academic achievement.

Work-Study

Twenty commenters also questioned the placement of paragraph (10)(iii)(D)(1) regarding work-study

programs in the section on practical training after completion of studies. It was requested that the Service better defiene the work-study concept to be more in line with previously articulated Service policy, namely that "work-study" can be accomplished in either alternating terms or parallel terms (where a student takes classes for part of the day and works for part of the day). In addition, twenty commenters objected to the proposal that students who engage in work-study programs be barred from participating in practical training after completion of studies.

The final rule retitles this section "Curricular practical training programs" to more closely coincide with the statement of previous Service policy, and places this section in the paragraph on practical training prior to graduation. The final rule also describes a mathematical computation which will bar participation in post-completion practical training to some, but not all, students who engage in this type of employment experience.

Changes to the Record-Keeping Requirements

Nine commenters specifically addressed the changes in the record-keeping requirements. It was pointed out that the retention of the student's admission number and nonimmigrant class are vital to the record report system, and therefore should be added to the record-keeping requirements. Four commenters applauded the Service for bringing the record-keeping requirements more in line with the Requirements of the Family Education Rights and Privacy Act of 1974 (FERPA), although three additional commenters indicated that other changes should be made. One commenter pointed out that the time within which the school was allowed to respond to the Service's request for information were inappropriate if the Service was holding an individual in custody. Seven additional commenters mentioned that the time periods for response may not be sufficient at large schools.

The final rule adds a requirement that the school keep a photocopy of the student's I–20ID copy, so that the additional data mentioned in the comments can be captured. Language has also been added to indicate that a school is required to respond orally on the same day to an oral request for information concerning a student in custody and that the school may ask for a formal written request after the fact, if the school so desires. The record-keeping requirements have been brought in line with the Service's interpretation of the FERPA requirements, and no additional changes were made. The Service also feels that the time elements for response are sufficient.

Change to H Nonimmigrant Status

Fifty-four comments were received by the Service concerning the proposal to bar F–1 students who have engaged in practical training after completion of studies from changing nonimmigrant status to the H category. Twelve individuals commented in favor of the rule, including six who specifically stated they could accept a grandfather clause provision. Forty-two commenters were opposed to the provision, including six who indicated they would favor the provision if a grandfather clause were added.

There were four general areas of concern expressed by those not in favor of the regulation as proposed. First, some commenters indicated that the proposal would have an adverse effect on the ability of United States businesses to hire qualified workers. It was pointed out both that those who are in practical training create a pool of desirable new employees, and that in some cases, practical training situations often legitimately evolve into situations which require a temporary worker. The Service has a great concern for the needs of American business, and recognizes the need to balance the needs of business with the protection of the labor market. In addition, in this particular situation, the general concerns of the educational exchange community must also be taken into account. It is felt by the Service that the needs of the business community can more than adequately be met by the ability to obtain the services of these particular individuals immediately upon graduation, if they intend to fill a temporary position.

The second concern expressed the feeling that the proposed regulation is a contradiction of the statute, which specifically provides for such a change of status, and that the Service has therefore overstepped its regulatory authority in the proposal. Section 214 of the Act gives the Attorney General sole authority to control the admission and conditions of stay of monimmigrants in the United States. Section 248 gives the Attorney General discretionary authority to change the nonimmigrant status of individuals who meet certain requirements. The Service currently precludes the approval of an application for certain nonimmigrants in the M–1 classification in a regulation which parallels the proposal at 8 CFR 248.1(d). Based on these facts, it is determined the Service would not be overstepping its regulatory authority by implementing the proposed regulation.

The third point raised in the comments is that the proposed regulation discriminates against individuals who are already in practical training programs, and entered those programs with the understanding that a change of nonimmigrant status to a temporary worker category would be permitted under the regulations. The Service accepts this premise.

The fourth point raised is that the Service is revising the regulations merely on a preception that abuse of the system is occurring when, in fact, either there is no abuse or the abuse is minimal. The Service agrees that a regulation of such impact should not be promulgated without sufficient statistical data to either substantiate or refute this perception. Therefore, the Service has deleted the proposal to require the Service to deny any change of status request for change of nonimmigrant status from student to temporary worker (H classification) when the student has engaged in practical training after graduation. The Service may again propose some action after studying whether abuse of the practical training system is occurring.

General Comments

Four individuals indicated a sense that the proposed regulation shifted the burden for record-keeping and accountability for students from the Service to designated school officials. Two indicated that they felt there would be a much higher percentage of the school officials' time devoted to immigration matters if the proposed regulation were put into effect. These comments were contrasted with more numerous comments indicating that the ability to effect change without Service involvement (especially the notification transfer procedure and the certification of the first period of practical training) would significantly reduce the amount of time a designated school official spent on immigration matters. The Service sees no additional changes that could be made, nor were any specifically recommended, to further reduce this workload.

There commenters indicated that the Service, by eliminating itself from certain actions, is abrogating its enforcement responsibility. On the contrary, the Service believes that implementation of this regulation will allow it to concentrate resources on the small number of students who are most likely to violate the regulations, and therefore takes a more responsible approach to enforcement of the

regulations. At this time, the Service does intend to again require, within one year of the effective date of this regulation, the submission of Form I–721 from designated officials.

Technical Comments

There were five technical points that were raised by commenters. Five commenters indicated agreement with paragraph (4)(ii) of the proposal, regarding notation on the visa page of students who have transferred. One commentor accurately stated that in certain circumstances, Service inspectors will need to endorse Form I–20AB upon readmission of certain students, in order for the Service's computer database to be updated. A sentence of this effect has been added to the regulation.

Four commenters stated that the phrase "post-graduate" as used in paragraph (f)(5)(i) was inappropriate. They recommended the phrase "post-doctoral". This change was incorporated into the final regulation. One commenter pointed out the Service practice of admitting a foreign student for thirty days with Form I–515 is contrary to the definition of duration of status in paragraph (f)(5)(ii). As the Service desires to continue use of the I–515 procedure, the definition was revised. Two commenters objected to allowing district directors to review the decision of a designated school official to allow a person to carry less than a full course of study. Both saw this as an intention of the Service to "second-guess" the designated school official. This requirement is currently in the regulation, and the Service is not aware of any abuse by Service officers. The intent is to acknowledge that a final determination still rests with the Service.

In paragraph (f)(10)(iii)(A), ten commenters indicated that requiring a student in practical training to submit a request for a second period "immediately" upon employment is imprecise, and will lead to confusion. The final rule replaces the term with a more definitive term.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant economic impact on a substantial number of small entities. While portions of the rule deal with record-keeping requirements, compliance with them will not result in a significant effect on the economy or operation of the affected institutions or individuals. The rule is not a major rule within the meaning of section 1(b) of E.O. 12291. The information collections contained in this rule have been cleared under Paperwork Reduction Act.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Schools, Students.

For the reasons set forth in the preamble, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for Part 214 is revised to read as follows:

Authority: Secs. 101, 103 and 214 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101, 1103 and 1184.

2. In § 214.2, paragraphs (f)(4)(ii), (5), (6)(ii)–(v), (7), (8), and (10) are revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) * * *

(4) * * *

(ii) *Student who intends to transfer or has transferred between schools.* If an F–1 student has transferred or intends to transfer between schools and has been issued an I–20A–B by the school to which he or she has or intends to transfer, the name of the new school does not have to be specified on the student's visa to allow reentry into the United States after a temporary absence. If the student has not yet attended the new school, the inspecting officer will endorse Form I–20 ID Copy to indicate the new school, and will endorse Form I–20A–B and forward it to the Service's Data Processing Center.

(5) *Duration of status*—(i) *General.* For purposes of this chapter, duration of status means the period during which the student is pursuing a full course of studies in any educational program (e.g., elementary or high school, bachelor's or master's degree, doctoral or post-doctoral program) and any periods of authorized practical training, plus sixty days within which to depart from the United States. An F–1 student who continues from one educational level to another is considered to remain in status, provided the transition to the new educational program is accomplished according to the transfer procedures outlined in paragraph (f)(8) of this section. An F–1 student at an academic institution is considered to be in status during the summer if the student is eligible, and intends to register for the next term. A student attending a school on a quarter or trimester calendar who takes only one vacation a year during any one of the quarters or trimesters instead of during the summer, is considered to be in status during that vacation provided the student is eligible, intends to register for the next term, and has completed the equivalent of an academic year prior to taking the vacation. A student who is compelled by illness or other medical condition to interrupt or reduce a course of study is considered in status during the illness or other medical condition. The student must resume a full course of study upon recovery.

(ii) *Condition.* Subject to the condition that the alien's passport is valid for at least six months at all times while in the United States, including any automatic revalidation accorded by the agreement between the United States and the country which issued the alien's passport (unless the alien is exempt from the requirement for presentation of a passport):

(A) Any alien admitted to the United States as an F–1 student is to be admitted for duration of status as defined in paragraph (f)(5)(i) of this section except that a student may be admitted for 30 days with Form I–515; and

(B) Any alien granted a change of nonimmigrant classification to that of an F–1 student is considered to be in status for duration of status as defined in paragraph (f)(5)(i) of this section.

(iii) *Conversion to duration of status.* Any F–1 student in college, university, seminary, conservatory, academic institution, or language training program who is pursuing a full course of study and is otherwise in status as a student, is automatically granted duration of status. The dependent spouse and children of the students are also automatically granted duration of status if they are maintaining F–2 status. Any alien converted to duration of status under this paragraph need not present Form I–94 to the Service. This paragraph constitutes offical notification of conversion to duration of status. The Service will issue a new Form I–94 to the alien when the alien comes into contact with the Service.

(6) * * *

(ii) Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a maximum of twelve semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes, or its equivalent (as determined by the district director in the school approval process), except when the student needs

a lesser course load to complete the course of study during the current term;

(iii) Study in a post-secondary language, liberal arts, fine arts or other non-vocational program at a school which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) or (2) of § 213.3(c), and which has been certified by a designated school official to consist of at least twelve clock hours of instruction a week, or its equivalent as determined by the district director in the school approval process;

(iv) Study in any other language, liberal arts, fine arts, or other nonvocational training program, certified by a designated school official to consist of at least eighteen clock hours of attendance a week provided that the dominant part of the course of study consists of classroom instruction, and twenty-two clock hours a week provided that the dominant part of the course of study consists of laboratory work; or

(v) Study in a primary or academic high school curriculum certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.

A designated official may advise an F–1 student to engage in less than a full course of study for valid academic reasons, limited to English language difficulties; unfamiliarity with American teaching methods or reading requirements; or improper course level placement. Although permission of the Service is not required to advise a student to take less than twelve semester or quarter hours, whether a student is, in fact, considered to be pursuing a full course of studies is subject to review and approval by the Service.

(7) *Extension of stay*—(i) *Request after eight consecutive academic years.* Any student who has been in student status for eight consecutive academic years must request an extension of stay from the Service. The application must be submitted to the Service on Form I–538. A student who has submitted an application for extension of stay may continue in student status until a decision is rendered by the Service. Departures from the United States of short duration during the academic year or during a vacation period do not break the continuity of a period of stay. Once a student has been granted an extension of stay, he or she does not have to request another extension until an additional eight-year period has elapsed.

(ii) *Request after extended period in one academic level.* Students who remain in one educational level for an extended period of time must request an extension of stay. The applicant must be submitted to the Service on Form I–538. The applicant must establish that there are valid academic reasons for going beyond the time limits. A student is required to request an extension of stay when according to the date on Form I–20A–B issued at the beginning of his or her program at the particular educational level:

(A) Studies are expected to be completed in two years or less, and the course is not completed within six months after the date studies are expected to be completed; or

(B) Studies are expected to be completed in more than two but within four years, but the course is not completed within one year after the date the studies are expected to be completed.

(C) Studies are expected to be completed in more than four years, but the course is not completed within eighteen months after the date the studies are expected to be completed.

(8) *School transfer*—(i) *Eligibility.* An F–1 student is eligible to transfer to another school if the student:

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school the student was last authorized to attend during the term immediately preceding the transfer (or the last term preceding a vacation as provided in paragraph (f)(5)(i) of this section);

(C) Intends to pursue a full course of study at the school to which the student intends to transfer; and

(D) Is financially able to attend the school to which the student intends to transfer.

(ii) *Transfer procedure.* The following procedures must be followed before a transfer will be considered to be completed:

(A) The F–1 student must obtain a properly completed Form I–20A–B from the school to which the student intends to transfer. The student must inform the designated school official at the school the student is currently attending of his or her intention to transfer;

(B) The student must enroll in the new school in the first term after leaving the previous school or the first term after vacation as provided in paragraph (f)(5)(i) of this section. The student must complete page 2 of Form I–20A–B as instructed and submit the Form I–20A–B to a designated school official of the new school within fifteen days after the date the student begins classes at the new school; and

(C) The designated school official receiving the Form I–20A–B must:

(*1*) Sign the reverse side of the Form I–20 ID Copy in the space provided for the designated school official's signature, thereby acknowledging the student's attendance in class;

(*2*) Return the Form I–20 ID Copy to the student;

(*3*) Add the name of the school from which the student has transferred to the front page of Form I–20A–B, item 2(C), and initial the addition;

(*4*) Submit the Form I–20A–B to the Service's Data Processing Center within thirty days of receipt from the student; and

(*5*) Submit a copy of Form I–20A–B to the school which the student was last authorized to attend.

(iii) *Student not pursuing a full course of study.* A student who wants to transfer to another school but has not pursued a full course of study at the school the student was last authorized to attend must apply for and be granted reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section before he or she may request a transfer. The student must include Form I–20A–B from the school which he or she intends to attend, if reinstated. If reinstatement is granted, the student is eligible to attend the new school without transfer.

* * * * *

(10) *Practical training*—(i) *Practical training prior to completion of studies*—(A) *General.* Temporary employment for practical training prior to completion of studies may be authorized only:

(*1*) After completion of all course requirements for the degree (excluding thesis or equivalent), if the student is in a bachelor's, master's or doctoral degree program;

(*2*) If the student is attending a high school, college, university, seminary, or conservatory which requires or makes optional practical training of candidates for a degree in that field or for a high school diploma; or

(*3*) During the student's annual vacation if the student is attending a college, university, seminary, or conservatory.

A student may not be granted permission to accept practical training prior to completion of studies unless the student has been in student status for nine months. A student in a language training program may not be granted permission to accept practical training

prior to completion of studies. A student may not be granted practical training exceeding twelve months in the aggregate prior to completion of studies.

(B) *Making a request to accept practical training prior to completion of studies.* A student must submit a request for practical training prior to completion of a course of study to the designated school official of the school the student is authorized to attend. The request must consist of:

(*1*) A completed request for practical training on Form I–538;

(*2*) Form I–20 ID Copy; and

(*3*) A certification from the head of the student's academic department or the professor who is the student's academic advisor stating that upon his or her information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence (unless the student is applying under paragraph (f)(10)(i)(A)(*2*) of this section).

(C) *Action upon request to accept practical training prior to completion of studies.* The designated school official must:

(*1*) Certify on Form I–538 that the proposed employment is for the purpose of practical training, that it is related to the student's course of study, and that upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence (unless the student is applying under paragraph (f)(10)(i)(A)(*2*) of this section);

(*2*) Endorse the Form I–538 to show that practical training from (date) to (date) has been authorized, and send the form to the Service's Data Processing Center; and

(*3*) Endorse Form I–20 ID Copy with the endorsement "practical training prior to completion of studies from (date) to (date) authorized", and return the form to the student.

(D) *Curricular practical training programs.* An F–1 student enrolled in a college, university, conservatory, or seminary having a curricular practical training program (such as alternate work/study, internship, or cooperative education) as part of the regular curriculum may participate in the program without obtaining a change of nonimmigrant status. Such programs shall be treated similar to practical training prior to completion of studies as defined in paragraph (f)(10)(i)(A)(*2*) of this section. Periods of actual off-campus employment in any such program which is full-time (no concurrent coursework) will be deducted from the total of twelve months practical training time before graduation for which the student is eligible. Periods of actual off-campus employment in any such program in which coursework and employment are engaged at the same time ("parallel programs") will be deducted from the total of twelve months' practical training time at the rate of 50% (one month deducted for every two months of parallel coursework and practical training). A student who participates in a curricular practical training experience for which six months or more of the practical training time prior to graduation is deducted is not eligible for practical training after completion of studies. A student may engage in practical training only after receiving the Form I–20 ID Copy endorsed to that effect.

(ii) *Practical training after completion of studies*—(A) *General.* Temporary employment for practical training after completion of studies may be authorized only:

(*1*) After completion of the course of study, if the student intends to engage in only one course of study; or

(*2*) After completion of at least one course of study, if the student intends to engage in more than one course of study. A student may not be granted permission to accept practical training after completion of studies unless the student has been in student status for nine months. After completion of studies, a student may not be granted practical training exceeding twelve months. A student in a language training program may not be granted permission to accept practical training after completion of studies.

(B) *Request to accept a first period of practical training after completion of studies.* A student must submit a request to accept a first period of practical training to the designated school official no more than sixty days prior to completion of the course of study, but less than thirty days after completion of the course of study. The request must consist of:

(*1*) A completed request for practical training on Form I–538;

(*2*) Form I–20 ID Copy; and

(*3*) A certification from the head of the student's academic department or the professor who is the student's academic advisor stating that upon his or her information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence.

(C) *Action upon a request to accept a first period of practical training after completion of studies.* The designated school official must:

(*1*) Certify on Form I–538 that the proposed employment is for the purposes of practical training, that it is related to the student's course of study, and that upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence;

(*2*) Endorse Form I–538 to show that practical training from (date) to (date) has been authorized, and send the form to the Service's Data Processing Center; and

(*3*) Endorse the Form I–20 ID Copy with the endorsement "First period of practical training authorized from (date) to (date)" and return the form to the student.

A student may engage in practical training only after receiving the Form I–20 ID Copy endorsed to that effect.

(D) *Computation dates for practical training.* For purposes of computation, the "beginning" date of the first period will be the date of completion of studies and the "ending" date will be a date six months after the date of completion of studies. The actual date of commencement of practical training will be determined by the Service at the time of application for a second period of practical training. The actual date of commencement of practical training will be the date the student begins employment, or a date sixty days after the date of completion of studies, whichever is earlier.

(iii) *Second period to continue practical training after completion of studies*—(A) *General.* A second period to continue practical training after completion of studies may not be granted unless the student has actually begun qualified employment during the first authorized period. A student shall submit his or her application for a second period to continue practical training within 30 days after he or she begins qualified employment.

(B) *Request for second period to continue practical training after completion of studies.* A student must submit a request for a second period to continue practical training. The request must be submitted to the Service office having jurisdiction over the actual place of employment. The request must consist of:

(*1*) A completed request for practical training on Form I–538, properly certified by the designated school official;

(*2*) The Form I–20 ID Copy; and

(3) A letter from the applicant's employer stating the applicant's occupation, the exact date employment began, the date employment will terminate, and describing in detail the duties of the applicant in the employment.

The letter from the student's employer must be seen by the designated school official before the designated school official's certification is made. There is no requirement that the student re-establish to the Service that the employment engaged in is not available to the student in the country of the student's foreign residence.

(C) *Action upon request for a second period to continue practical training after completion of studies.* The district director must determine that the student began qualified employment during the first period of practical training, that the stated employment is related to the student's course of study, and that the student can complete practical training within the maximum time authorized. Upon approval of the student's request to continue practical training the district director must:

(1) Endorse Form I–538 with the approval stamp, show that practical training from (date) to (date) has been authorized, and send the Form I–538 to the Service's Data Processing Center; and

(2) Endorse the Form I–20 ID Copy with the endorsement "Second period of practical training authorized from (date) to (date)", and return the form to the student.

A student who has been authorized a first period of practical training may continue to be employed while the application for a second period of practical training is pending until he or she receives a decision from the Service. A student may in no case continue employment beyond twelve months.

(D) *Computation dates for practical training.* The actual "beginning" date of the second period of practical training will be the end date of the first period. The "end" date of the second period will be the date twelve months after the exact date employment began, or fourteen months after the date of completion of studies, whichever is earlier. The student therefore has a maximum of twelve months' work authorized.

* * * * *

3. In § 214.3, paragraphs (g)(1)(i) through (xii) are revised and a new undersigned paragraph is added after paragraph (g)(1)(xii) to read as follows:

§ 214.3 Petitions for approval of schools.

* * * * *

(g) * * *

(1) * * *

(i) Name.

(ii) Date and place of birth.

(iii) Country of citizenship.

(iv) Address.

(v) Status, i.e., full-time or part-time.

(vi) Date of commencement of studies.

(vii) Degree program and field of study.

(viii) Whether the student has been certified for practical training, and the beginning and end dates of certification.

(ix) Termination date and reason, if known.

(x) The documents referred to in paragraph (k) of this section.

(xi) The number of credits completed each semester.

(xii) A photocopy of the student's I–20 ID Copy.

A Service officer may request any or all of the above data on any individual student or class of students upon notice. This notice will be in writing if requested by the school. The school will have three work days to respond to any request for information concerning an individual student, and ten work days to respond to any request for information concerning a class of students. If the Service requests information on a student who is being held in custody, the school will respond orally on the same day the request for information is made, and the Service will provide a written notification that the request was made after the fact, if the school so desires. The Service will first attempt to gain information concerning a class of students from the Service's record system.

* * * * *

Dated: March 23, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87–9069 Filed 4–21–87; 8:45 am]

BILLING CODE 4410–10–M

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8 CFR Part 341

[INS: 1007–87]

Certificates of Citizenship for Adopted Children; Interim Rule With Request for Comment

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule change will implement section 22 of Pub. L. 99–653, the Immigration and Nationality Act Amendments of 1986, regarding issuance of certificates of citizenship for adopted children. The effect of this rule change is to facilitate acquisition of United States citizenship by adopted alien children once they enter the United States.

DATES: Interim final rule effective November 6, 1986. Comments must be received on or before May 22, 1987.

ADDRESS: Submit written comments, in duplicate, to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Thomas E. Cook, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–5014.

SUPPLEMENTARY INFORMATION: On November 14, 1986, President Reagan signed Pub. L. 99–653. Section 22 of Pub. L. 99–653 amended section 341 of the Immigration and Nationality Act, 8 U.S.C. 1452, to permit an adopting United States citizen parent(s) to apply to the Attorney General for a certificate of citizenship in behalf of an adopted child. This provision is an alternative to a petition for naturalization before the court.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is impracticable and unnecessary as the changes have been mandated by the passage of Pub. L. 99–653.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 8 CFR Part 341

Citizenship and naturalization, Issuance of certificate, Reporting and recordkeeping requirements.

Accordingly, Chapter I of Title 8, Code of Federal Regulations, is amended as follows:

PART 341—CERTIFICATES OF CITIZENSHIP

1. The authority citation for Part 341 continues to read as follows:

Authority: Secs. 103, 309(c), 332, 333, 337, 341, 344, 66 Stat. 173, 238, 252, 254, 258, 263, 264, as amended; 8 U.S.C. 1103, 1409(c), 1443, 1444, 1448, 1452, 1455.

2. Section 341.7 is revised to read as follows:

§ 341.7 Issuance of certificate.

If the application is granted, a certificate of citizenship shall be issued and, unless the claimant is unable by